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**To:** [All of Judges \(EOIR\)](#); [BIA BOARD MEMBERS \(EOIR\)](#); [Slutman, Robin M. \(EOIR\)](#); [BIA ATTORNEYS \(EOIR\)](#); [All of OCII JLC \(EOIR\)](#); [BIA TEAM JLC](#); [BIA TEAM P \(EOIR\)](#); [King, Jean \(EOIR\)](#); [Alder Reid, Lauren \(EOIR\)](#); [Berkeley, Nathan \(EOIR\)](#); [Korniluk, Artur \(EOIR\)](#); [Cowles, Jon \(EOIR\)](#); [Bauder, Melissa \(EOIR\)](#); [Vayo, Elizabeth \(EOIR\)](#); [Kaplan, Matthew \(EOIR\)](#); [Lang, Steven \(EOIR\)](#); [Ramirez, Sergio \(EOIR\)](#); [Powell, Karen B. \(EOIR\)](#); [Taufa, Elizabeth \(EOIR\)](#); [Lovejoy, Erin \(EOIR\)](#); [Rodriguez, Bernardo \(EOIR\)](#); [Brazill, Caitlin \(EOIR\)](#); [Wilson, Amelia \(EOIR\)](#); [Sheehey, Kate \(EOIR\)](#)  
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## ■ EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

Office of Policy ■ Legal Education and  
Research Services Division

### | Policy & Case Law Bulletin

February 9, 2018

White House

- [White House Directs Establishment of National Vetting Center](#)

On February 6, 2018, the President signed a memorandum directing the establishment a National Vetting Center, which is subject to the oversight of a National Vetting Governance Board. The Center's purpose is to optimize the coordination and use of Federal intelligence and other information to identify individuals who present a threat to national security, border security, homeland security, or public safety.

Federal Agencies

DOJ

- [\*\*Virtual Law Library Weekly Update – EOIR\*\*](#)

This update includes resources recently added to EOIR's internal or external Virtual Law Library, including recent BIA precedents, country conditions information, and links to recently-updated immigration law publications.

- [\*\*DOJ Files Denaturalization Complaint Against Diversity Visa Recipient Who Transferred Non-Profit Funds to Specially Designated Global Terrorist\*\*](#)

On February 7, 2018, the Department filed a [complaint](#) to revoke the naturalization of a Sudan native—who entered the United States on an F-1 student visa and gained lawful permanent resident status through the diversity visa lottery program—for violating and conspiring to violate sanctions imposed against Iraq under the

International Emergency Economic Powers Act (IEEPA), as well as obstructing Internal Revenue laws.

DOS

- [\*\*Notice of Receipt of Application from California Department of Transportation for a Presidential Permit to Authorize a New Port of Entry in San Diego County\*\*](#)

Notice was published in the Federal Register on February 7, 2018, that DOS received an application from the California Department of Transportation requesting authorization for the construction, connection, operation, and maintenance of a new border crossing. The notice indicates that such a new port of entry in San Diego County could alleviate strain on existing ports of entry, as well as the local and regional transportation infrastructure.

- [\*\*Notice of Secretary of State's Designation of Two Specially Designated Global Terrorist Entities\*\*](#)

Notice was published in the Federal Register on February 6, 2018, of Secretary of State Rex W. Tillerson's designation as Specially Designated Global Terrorist Entities of Liwa al-Thawra (aka Liwa al-Thawrah, aka Liwa' al-Thawrah, aka Liwaa al-Thawra, aka Lewaa Al-Thawra, aka Revolution Brigade, aka The Revolution Brigade, aka Banner of the Revolution), and Hasm (aka Hassm, aka Hasm Movement, aka Harakah Sawa'id Misr, aka Harakat Sawa'd Misr, aka Arms of Egypt Movement, aka Movement of Egypt's Arms, aka Movement of Egypt's Forearms, aka Hamms, aka Hassam).

DHS

- [\*\*USCIS and DOS Implement New Procedures to Ensure Thorough Vetting of all Individuals Admitted as Refugees\*\*](#)

On February 1, 2018, USCIS and DOS implemented additional procedures to ensure consistent, thorough vetting of all individuals admitted to the United States as refugees. These additional measures resulted from a review of the refugee

admissions process, as mandated by section 6(a) of Executive Order 13780. Specifically, additional measures now apply to following-to-join refugees who are processed overseas, including ensuring that following-to-join refugees receive the full baseline interagency screening and vetting checks that other refugees receive; requesting that the following-to-join refugee submit his or her Form I-590 (Registration for Classification as Refugee) in support of the principal refugee's Form I-730 (Refugee/Asylee Relative Petition) earlier in the adjudication process; and vetting certain nationals or stateless persons against classified databases.

- **USCIS Prepares for Possible Surge in H-2B Petitions for Second Half of FY 2018**

In response to DOL's January announcement that it will not begin releasing H-2B temporary labor certifications until Feb. 20, 2018, due to an unprecedented number of applications, USCIS anticipates that it may receive more H-2B visa petitions than there are H-2B visas available in the second half of FY2018. USCIS stated that it will take a flexible approach to address this issue, including the possibility of randomly selecting H-2B petitions received on the day of the final receipt deadline.

#### First Circuit

- **Ruiz-Escobar v. Sessions**

No. 17-1539, 2018 WL 671125 (1st Cir. Feb. 2, 2018) (Past Persecution-Nexus; Due Process)

The First Circuit denied the PFR, concluding that substantial evidence supports that the agency's ruling that the petitioner did not establish a nexus between his claimed past persecution and his family membership. The Court also held that the petitioner did not establish a due process violation based on the IJ admitting a Spanish-language article into evidence without an English translation where the interpreter orally translated the article on the record during the hearing.

#### Fifth Circuit

- **United States v. Reyes-Contreras**

No. 16-41218, 2018 WL 722522 (5th Cir. Feb. 6, 2018) (Crime of Violence)

The Fifth Circuit vacated the district court's judgment and remanded, concluding that defendant's conviction in violation of Mo. Ann. Stat. § 565.023 (voluntary manslaughter) is divisible and could warrant an enhancement under the modified categorical approach. The court also held that subsection (2) manslaughter (assisting another in self-murder) is not a crime that has use of force as an element and therefore does not qualify as a crime of

violence pursuant to U.S.S.G. § 2L1.2 (“use of force” language same as in U.S.S.G. § 4B1.2(a) (1), and 18 U.S.C. § 16(a)).

#### Seventh Circuit

- Correa-Diaz v. Sessions

No. 16-3198, 2018 WL 632773 (7th Cir. Jan. 31, 2018) (Sexual Abuse of Minor)

The Seventh Circuit denied the PFR, deferring to the BIA’s interpretation of “sexual abuse,” and concluding that petitioner’s conviction under Ind. Code § 35-42-4-9(a) (attempted sexual misconduct with a minor) is categorically an aggravated felony under section 101(a) (43)(A) of the Act.

#### Ninth Circuit

- United States v. Walton

No. 15-50358, 2018 WL 650979 (9th Cir. Feb. 1, 2018) (Crime of Violence)

The Ninth Circuit vacated the district court’s sentence and remanded, concluding that convictions under Ala. Code § 13A-8-41(a) (armed robbery) and Cal. Penal Code § 211 (second-degree robbery) are not violent felonies under the force clause of the ACCA, 18 U.S.C. § 924(e)(2)(B)(i) (same as 18 U.S.C. § 16(a)).

#### Eleventh Circuit

- Lin v. U.S. Att’y Gen.

No. 17-10834, 2018 WL 636055 (11th Cir. Jan. 31, 2018) (Motion to Reopen)

The Eleventh Circuit denied the PFR, concluding that the BIA provided “reasoned consideration” and did not abuse its discretion when it upheld the IJ’s denial of an untimely, number-barred motion to reopen that was not supported by new or previously unavailable evidence or arguments. The court also concluded that exhaustion of procedural due process claims before the agency was required because they were within the agency’s power to review and provide a remedy.

- Pierre v. U.S. Att’y Gen.

No. 16-15898, 2018 WL 456205 (11th Cir. Jan. 18, 2018) (CIMT; Crime of Child Abuse; Motion for a Continuance)

This case is summarized in the Jan. 26, 2018 Policy & Case Law Bulletin as to the criminal issues. We add that the court found no due process violation when the IJ denied the petitioner’s motion to continue because the petitioner did not show “substantial prejudice” resulted from DHS’s late motion to pretermit. Substantial prejudice is shown in the Eleventh

Circuit where “the outcome would have been different” absent the violation.